Taxing Times Survey 2022

The survey was designed to measure corporate taxpayers' recent experiences with the South African Revenue Service (SARS) and highlight key areas of success and possible areas for improvement at SARS.

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Definitions

BEPS	Base Erosion and Profit Shifting
CIT	Corporate Income Tax
CSARS	Commissioner of the South African Revenue Services
IT14SD	Income Tax Supplementary Declaration
LB&I	Large Business and International Division
MAP	Mutual Agreement Processes
MLI	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS
OECD	Organisation for Economic Cooperation and Development
OTO	Office of the Tax Ombud
PAYE	Pay-As-You-Earn
PwC	PricewaterhouseCoopers Tax Services (Pty) Ltd
SAIT	South African Institute of Taxation
SARS	South African Revenue Service
TAA	Tax Administration Act No. 28 of 2011 (as amended)
TCDR	The Tax Controversy & Dispute Resolution division of PwC
TP	Transfer Pricing
USP	Understatement Penalty
VAT	Value-Added Tax
VAT201	Value-Added Tax Return
VDP	Voluntary Disclosure Programme

Editor's note

PwC's Taxing Times Survey was created with the aim of assessing corporate taxpayers' recent experiences with SARS and to highlight key areas of success as well as possible areas for improvement at SARS. This report aligns with PwC's New Equation which is about supporting organisations as they seek to build trust on the one hand, whilst also creating sustained outcomes on the other. Sustained outcomes are the holistic outcomes which deliver value, with tax often being the differentiator.

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Our latest edition, the fifth in the annual series, was conducted during the months of May to July 2022, with 178 corporate taxpayers participating across 23 industries.

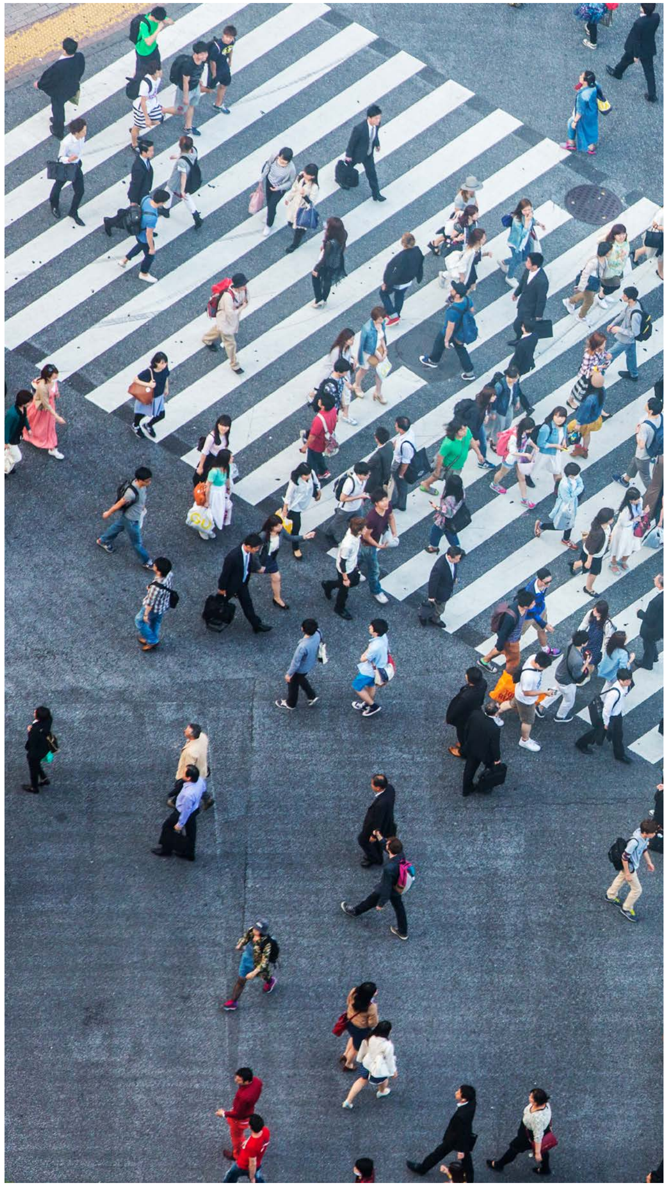
Since our first report, which was released in 2018, the tax landscape has evolved. Some noteworthy changes at SARS include the new leadership and the restructuring of the organisation, the allocation of resources to re-capacitate SARS (including people and technology) as well as improvements in the enforcement realm. SARS has published various media statements announcing a recruitment drive to increase the number of specialists to ensure that it meets its nine strategic objectives. In addition, SARS has widened the net of automated assessments, to decrease the number of taxpayers that need to submit annual income tax returns.

This is part of the organisation's drive to use data and technology to automate as many processes as possible. Finally, we have noted several media statements in which SARS has given warnings to non-compliant taxpayers that it intends to make it 'hard and costly' for such taxpayers. The restructuring of SARS in the past three years is aimed at creating an end-to-end service for taxpayers within one department, as opposed to the scattered approach employed in the previous model.

In SARS' Strategic Plan of 2020/2021, the organisation announced its aspirational new Vision 2024 which is to build *"a smart modern SARS, with unquestionable integrity, trusted and admired"*.

This has also translated into a clear strategic intent that follows international best practices and has culminated in SARS' nine strategic objectives which are:

1	Provide **Clarity** and **Certainty** for taxpayers and traders of their obligations
2	Make it **Easy** for taxpayers and traders to comply with their obligations
3	**Detect** taxpayers and traders who do not comply, and make non-compliance **Hard** and **Costly**
4	Develop a HIGH performing, **Diverse**, **Agile**, **Engaged** and **Evolved** workforce
5	Increase and expand the use of **Data** within a comprehensive knowledge management framework to ensure integrity, derive insight and improve outcomes
6	Modernise our systems to provide **Digital** and **Streamlined** online services
7	Demonstrate **effective resource stewardship** to ensure efficiency and effectiveness in delivering quality outcomes and performance excellence
8	Work with and through **stakeholders** to improve the tax ecosystem
9	Build **Public Trust** and **Confidence** in the tax administration system



The CSARS, Mr. Edward Kieswetter (who was appointed in 2019) has also introduced several new units within SARS, including the High Wealth Individual Taxpayer Segment and Illicit Economy Unit. The Large Business Division (now known as LB&I) was also revived to improve service delivery, and to take action against non-compliant taxpayers. The year 2022 marks SARS' 25th year anniversary, a milestone to celebrate given the various improvements that the organisation has made over the years.

As mentioned above, our survey findings over the past five years reflect the perceptions (and experiences) of taxpayers when dealing with SARS. The 2022 survey results have been analysed with SARS' key strategic objectives in mind.

Key developments at SARS since August 2021

August 2021	Draft Interpretation Note – Reduced Assessments: Meaning Of “Readily Apparent Undisputed Error” published for comment.
October 2021	The Draft Guide to the Voluntary Disclosure Programme was published for comment.
February 2022	The finance minister announced, in the Budget Speech, a reduction in the corporate income tax rate from 28% to 27% for years of assessment ending on or after 31 March 2023 (i.e. for years of assessment beginning on or after 1 April 2022 with the possible exception where a financial year has changed). Draft Interpretation Note – Understatement Penalty: Meaning of ‘Maximum Tax Rate applicable to the Taxpayer’ under Section 222(5) of the Tax Administration Act was published for comment.
March 2022	MLI measures in order to prevent BEPS submitted to Parliament for approval. CSARS launched a ground-breaking list of tax terminology in ten official languages. SARS published the Excise leaflet guide for small businesses. The Tax Ombud, Judge Bernard Ngoepe, released the draft Compendium of Taxpayers’ Rights, Entitlements and Obligations’ for public comment.
April 2022	For the period ending 31 March 2022, SARS collected a gross amount of R1,885.9 trillion (R1,250 trillion in the prior year). Offset by refunds of R321.1 billion (R290.7 billion in the prior year), this results in net collections of R1,563 trillion, which represented an increase of R314 billion (25%) against the prior year 2020/21.
May 2022	SARS published the 2022 Service Charter with effect from 1 April 2022. The Service Charter serves as a tool of commitment, and should help SARS with clarity and certainty in making it easy to connect all its employees and operations in the value chain to deliver outcomes in line with SARS’ strategic objectives.
August/ September 2022	SARS indicated that they have decided to decommission the IT14SD process during September 2022 and issued a circular in this regard.

About the survey and its objectives

This survey firstly aims to gauge corporate taxpayers' experiences when dealing with SARS. The survey outcomes serve as a constructive platform to engage with SARS about how it can improve public trust, efficiency and confidence in the tax administration system, as well as improve its stakeholder relationships. SARS has increasingly taken a keen interest in the findings of our survey, whose results are shared with the revenue collector annually, prior to the release of this report. The pre-release engagement with SARS is valuable in that better insights into both the successes and challenges of dealing with SARS are obtained.

Several of the survey questions speak directly to SARS' nine strategic objectives, which are not only important drivers of rebuilding the organisation, but to also ensure effective and efficient collection of taxes. The survey attempts to represent a report card on the extent to which SARS is achieving its goals. It is important to note that this 'report card' is limited to corporate taxpayers that participated in the survey.

The findings contained in this report represent the percentage of participants who provided an answer to a specific question. Some questions were not applicable to all participants.

Key Focus Areas Tested:

This year's survey was more streamlined and the questions focussed on four key areas, being:

- The Audit Process
  - Corporate Income Tax
  - Value-Added Tax
  - Transfer Pricing
- The Debt Management Process
- The Voluntary Disclosure Programme
- SARS' Service Delivery

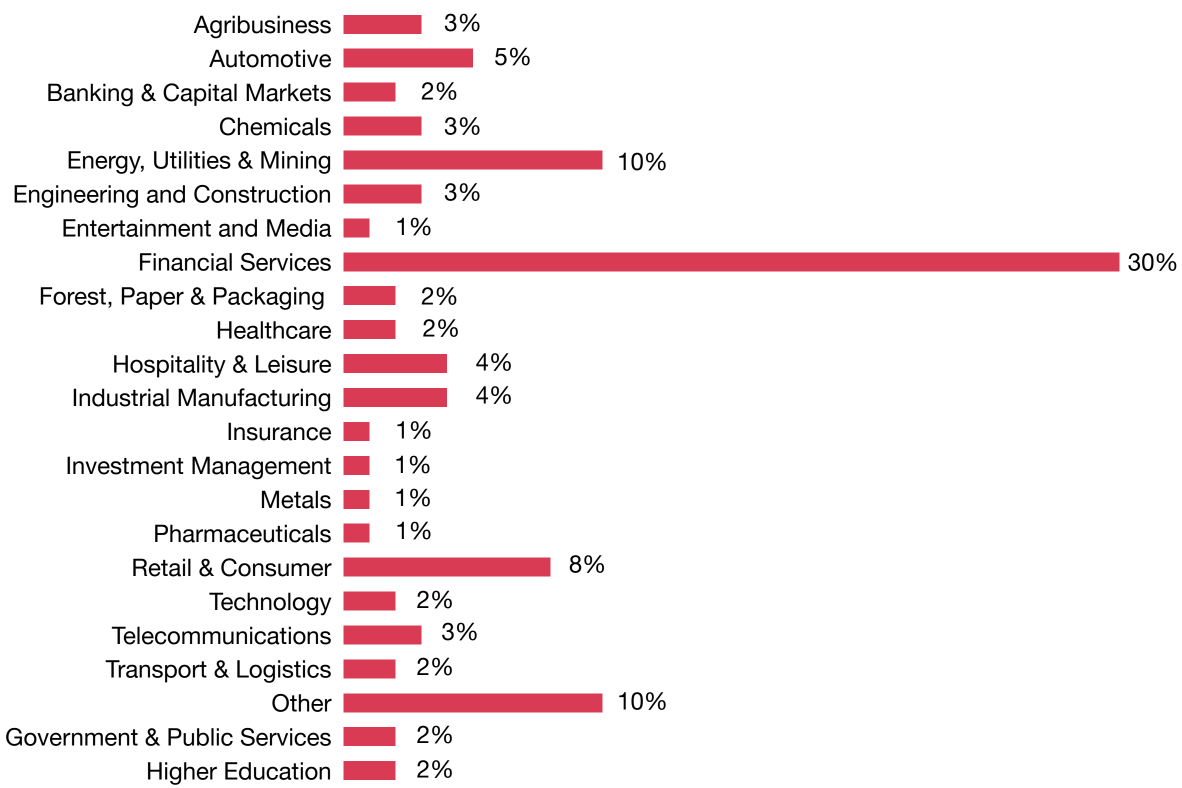
The report includes the questions from the survey, with the outcomes, and provides an analysis of the data.

Participant profile

Industries represented

Q: Which industry is your company in?

Figure 1: Which industry is your company in?



Source: PwC analysis

Participants in this year's survey represent 23 industries. In line with previous years, the Financial Services industry attracted the highest participation rate (30%), followed by Energy, Utilities & Mining (10%), 'Other' (10%), Retail & Consumer industries (8%) and Automotive (5%).

Survey findings

The audit process – An overview

The filing of a tax return results in an original assessment (which can be either a SARS assessment or self-assessment depending on tax type), which reflects the information submitted by a taxpayer to SARS. Thereafter, SARS may select the taxpayer for verification and subsequently for an audit.

For purposes of the verification process, SARS will conduct a ‘face-value’ **verification** of the information declared by the taxpayer in the return. This involves a comparison of the taxpayer’s declaration with third-party data gathered by SARS from various sources together with the financial and accounting records and/or other supporting documents provided by the taxpayer to ensure that the return is a fair and accurate representation of the taxpayer’s tax position[1]. SARS may, post verification, select a matter for audit (specialist or otherwise) for a more in-depth review/ audit.

SARS states that it is “an examination of the financial and accounting records and/ or supporting documents of the taxpayer to determine whether the taxpayer has correctly declared his/her tax position to SARS”[2].

For the purposes of either the verification or audit process, SARS may request certain financial and accounting records and/ or supporting documents from the taxpayer or any other party that may be in possession of relevant material (such as the banks, clients or other institutions, which can be situated locally or abroad) to determine whether the taxpayer has correctly declared their tax affairs to SARS.

[1] reference: https://www.sars.gov.za/individuals/what-if-i-do-not-agree/being-audited-or-selected-for-verification/
[2] reference: https://www.sars.gov.za/individuals/what-if-i-do-not-agree/being-audited-or-selected-for-verification/

Corporate Income Tax

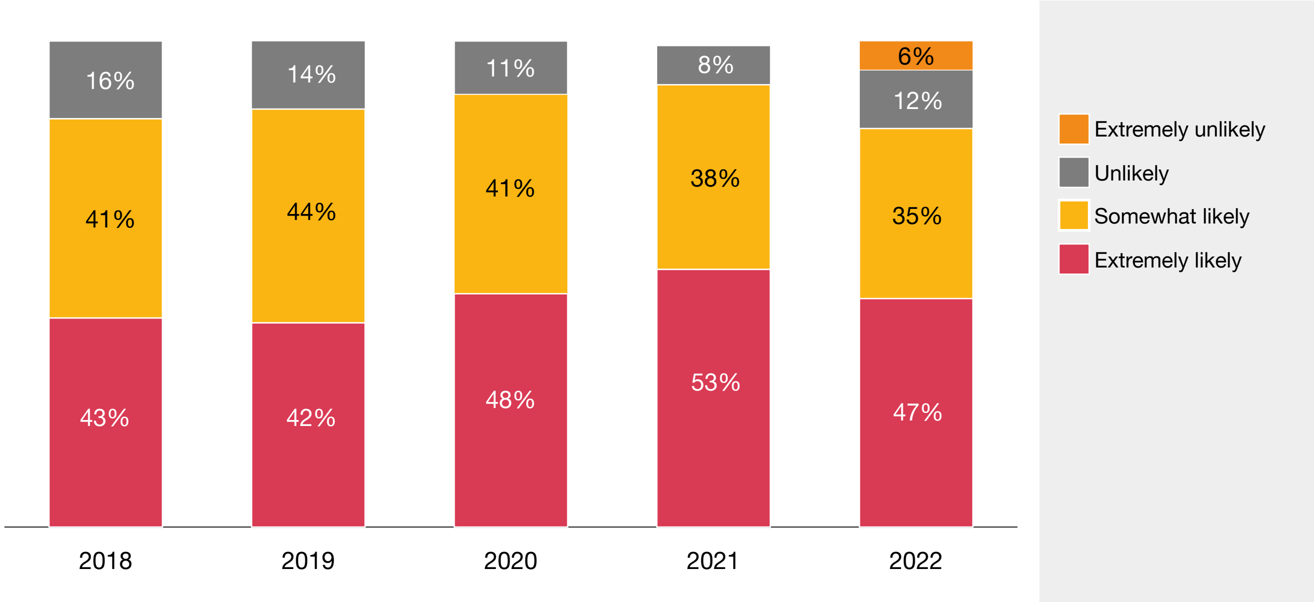
Likelihood of being selected for verification

PwC tested taxpayers' perceptions on the likelihood of being selected for verification following the submission of their annual corporate income tax returns. Take note, SARS may select a taxpayer return for purposes of a verification either randomly or based on a risk identified by SARS in the return of the taxpayer. A 'risk' would be a declaration that, at first glance may result in loss to SARS from a tax collection perspective.

The 2022 results indicate that 47% of the participants believe it is extremely likely that they will be selected for verification, compared to 53% in 2021 and 48% in 2020. This shows a slight decrease in the perception of participants on the likelihood of being selected for a CIT verification in comparison to the steady year-on-year increase in prior years' results.

Considering that this year 47% of participants indicated that they are highly likely to be selected for verification and 35% stated that they are somewhat likely to be selected, it appears that SARS' selection criteria (whether it be random or based on risk) is quite wide. We discuss the length of time it takes to finalise a verification below, but the high likelihood of a verification does cause some concern as SARS has publicly stated that their aim is to improve the risk engine functionality and use of data that would reduce the verification rate of returns.

Figure 2: How likely is SARS to verify your company post submission of CIT return on an annual basis?



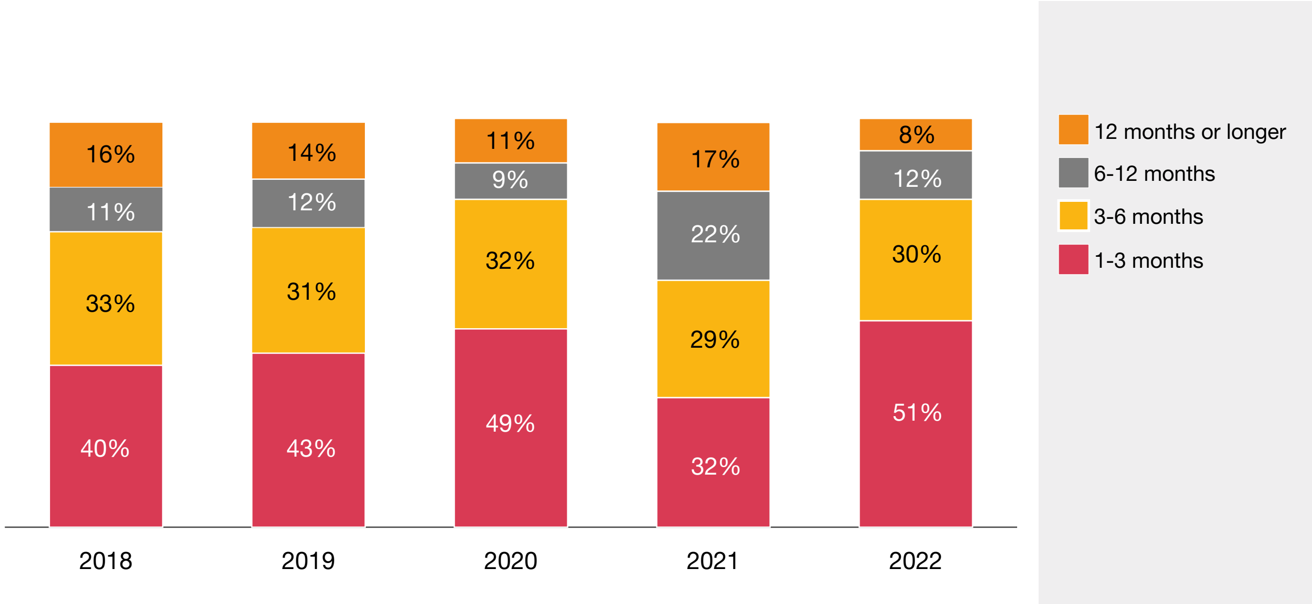
Source: PwC analysis

Time taken to finalise a verification process

This year, 51% of participants indicated that their CIT verifications take between one and three months to complete, which is a significant improvement from last year's 32% (2020: 49%). The results also indicate that less participants (8%) are experiencing an extended turnaround time on finalisation of the verification process of '12 months or longer' in comparison to 2021 (17%) and 2020 (11%). This shows an improvement in turnaround time of verifications by SARS. This is a positive result and indication that SARS is improving the verification process

As indicated above, a verification is a mere face-value and high level verification of a return. Verifications should therefore be completed within a short period of time and we hope to see more improvements in the years to come.

Figure 3: In your experience, how long does it typically take SARS to complete the verification of a return (not referring to an audit)?



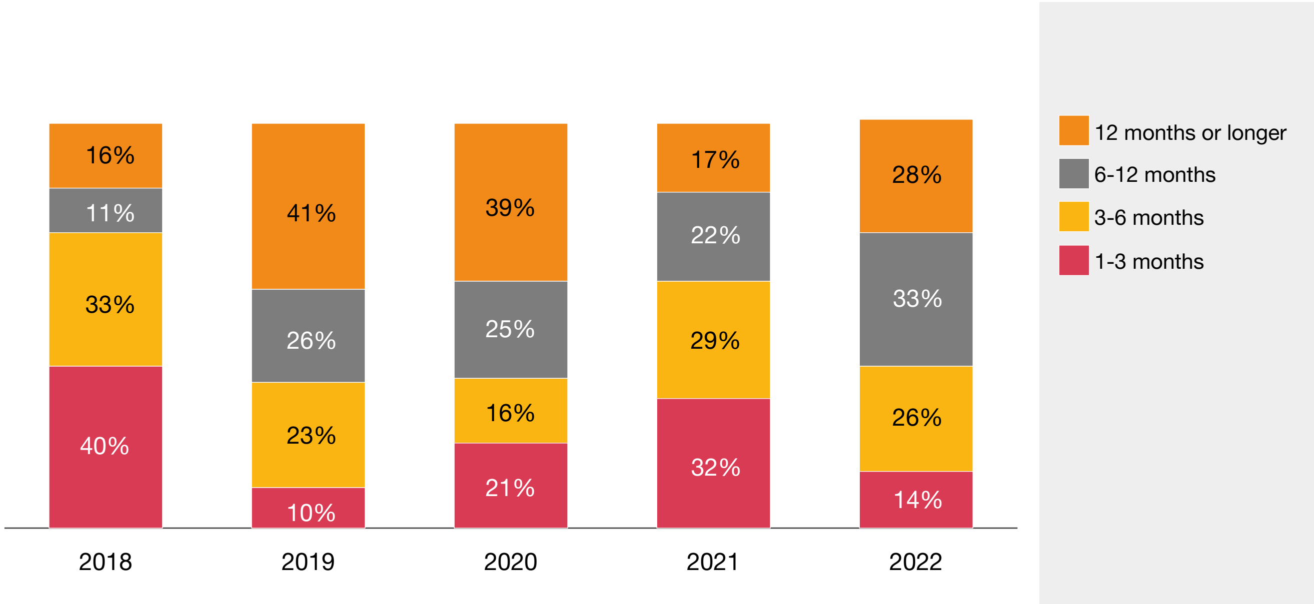
Source: PwC analysis

Time taken to finalise an audit

SARS divides its audits (a more in-depth enquiry versus a verification) into business as usual audits and specialist audits which entail a full scope investigation into the tax affairs of a taxpayer.

We asked participants about their experiences with SARS' audits, specifically focusing on turnaround times. In this regard, only 14% of participants reported that SARS took one to three months to complete an audit, compared to the 32% reported in 2021. In addition, 33% of participants indicated that audits were finalised in 6 – 12 months which is a significant increase, year on year, from prior years and a worrying statistic as this will ultimately cost taxpayers more time, money and uncertainty.

Figure 4: In your experience, how long does it take SARS to complete an audit (usually done post verification)?



Source: PwC analysis

Issuing of progress reports

During the audit process, it is important for SARS to take cognisance of taxpayers' rights and to follow due and fair administrative processes, which includes the issuance by SARS of reports regarding the stage of completion of audits. These reports are aimed at keeping the taxpayer informed during the audit process. Importantly, Public Notice 788 (issued 01 October 2012) read with the TAA compels SARS to issue these progress reports every 90 calendar days. SARS also affirms this obligation on its website[3].

Survey participants report an ongoing failure by SARS to issue progress reports to taxpayers, as required by section 42(1) of the TAA. Concerningly, only 4% of participants indicated that SARS 'Always' issues progress reports, which is roughly consistent with results from prior years (3% in 2021; 5% in 2020). In addition, in our experience these progress reports are mostly templates, without substance, that deliver no real indication of the stage of progress or completion of an audit.

Audit Findings Letter

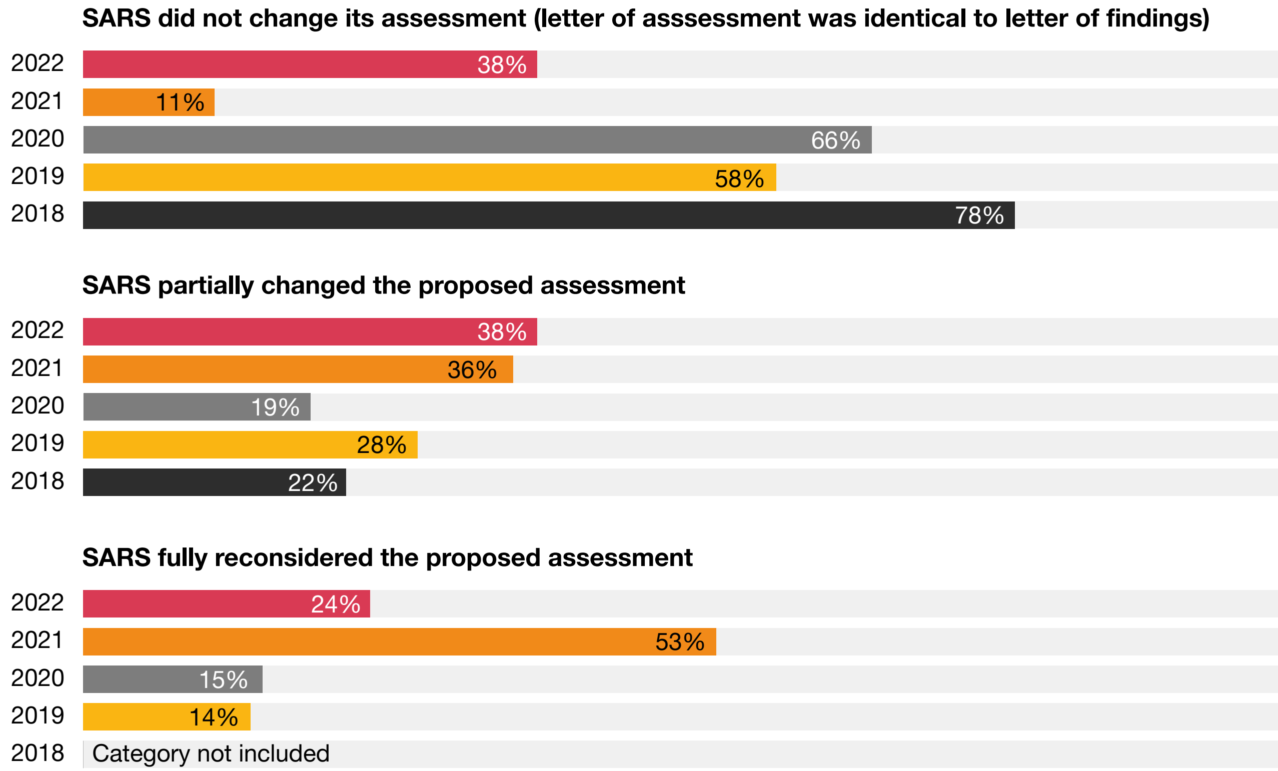
Once the audit is finalised, SARS is obliged to deliver a Letter of Audit Findings, as prescribed in section 42 of the TAA. The taxpayer, in turn, has the right to respond to the Letter of Audit Findings (usually within 21 days) outlining its representations (legal, technical or administratively/procedurally) of its tax position, by either agreeing or disagreeing - or partially agreeing or disagreeing - with SARS' findings.

We asked participants whether they believe that SARS actually considers their responses and applies its mind to the merits of each case in relation to the responses submitted by taxpayers.

This year, 38% of participants indicated that SARS did not consider the taxpayer's responses at all upon issuing a Letter of Assessment. This is a significant increase from the 11% reported in 2021.

Interestingly, we noted that 38% of participants reported that SARS partially considered the responses (2021: 36%) and only 24% of participants indicated that SARS fully reconsidered the proposed assessment after taxpayer's responses were submitted (29% down from the 53% reported in 2021). The statistics presented here is therefore worrying as to whether SRAS truly considers taxpayer representations.

Figure 5: If you responded to a letter of audit findings from SARS, did SARS reconsider its basis or proposed assessments?



Source: PwC analysis

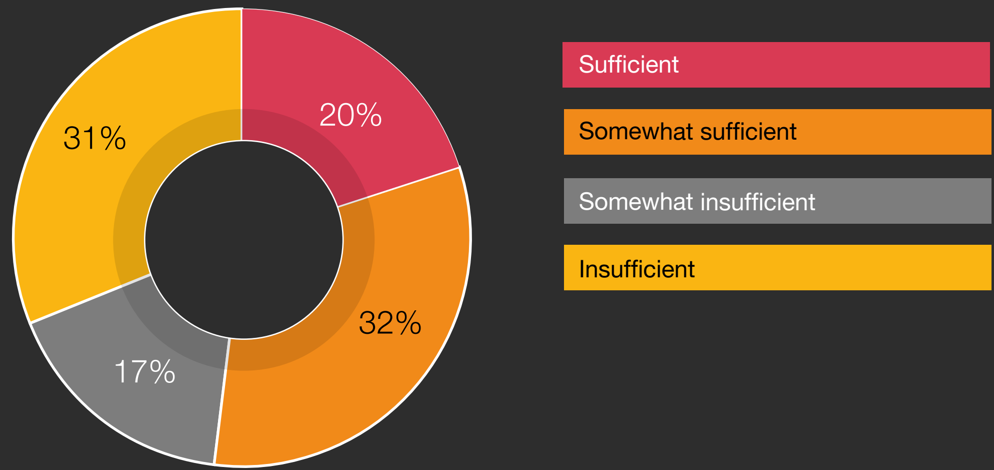
[3] reference: https://www.sars.gov.za/individuals/what-if-i-do-not-agree/being-audited-or-selected-for-verification/

Letter of Assessment

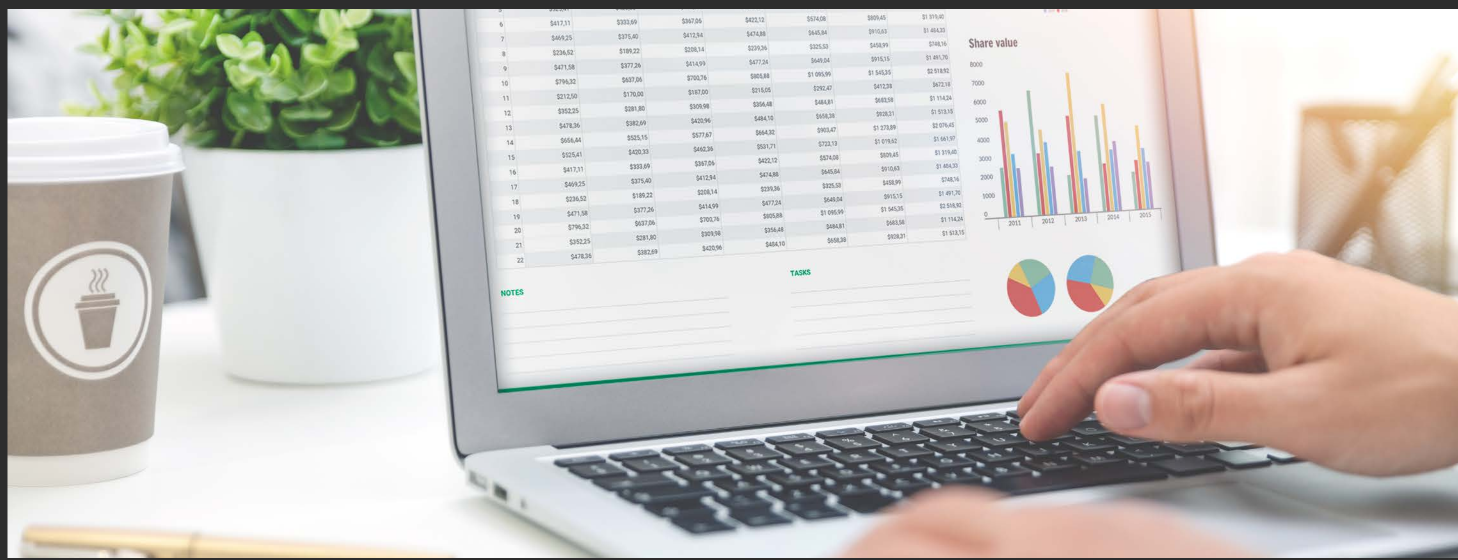
Once SARS has considered the taxpayer's response to the Letter of Audit Findings and has determined that the responses from the taxpayers do not warrant a complete reconsideration of the Letter of Audit Findings, it issues a notice of assessment. In addition to issuing a notice of assessment, SARS is obliged to issue an Assessment Letter/ Finalisation of Audit Letter, which outlines the factual and legal grounds for its assessment as well as contains detail surrounding the levying of understatement penalty. The letter includes a description of the particular type of assessment, the basis of the adjustment(s) as well as reasons why the assessment may have been raised beyond the period of limitation for the issuance of assessments (three years in the case of income tax and five years in the case of self-assessments such as VAT or PAYE returns). The Letter of Assessment must convey sufficient information to enable the taxpayer to formulate its grounds of objection to the extent that it wishes to lodge an objection to the SARS' assessment.

Our 2022 survey findings reveal that the Finalisation of Audit Letter has insufficient explanations regarding the basis of the assessments in 31% of the cases. These results may explain the large number of disputes (objections/appeals) currently being raised by taxpayers.

Figure 6: If you were audited by SARS in the past year, did SARS' finalisation of the audit letter provide sufficient explanations (grounds) to understand the basis for the assessment raised by SARS?



Source: PwC analysis

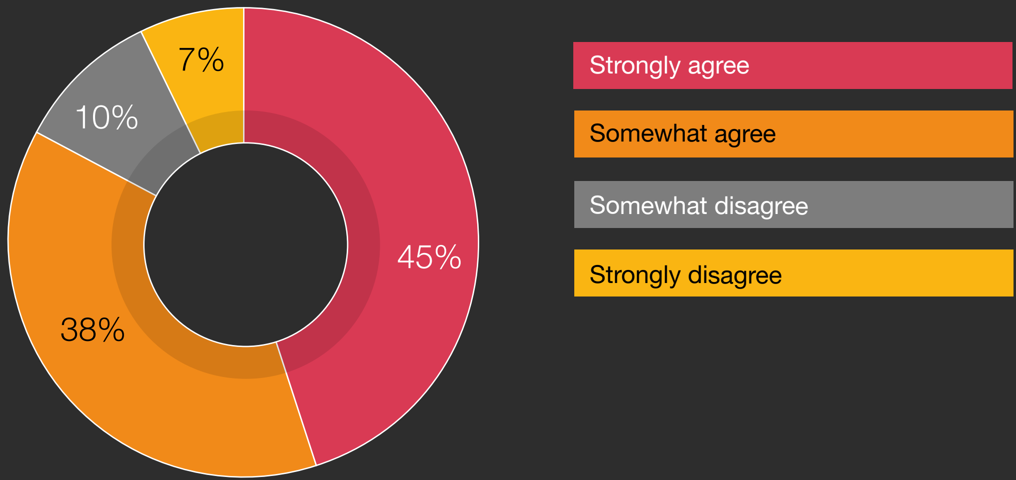


Understatement penalties

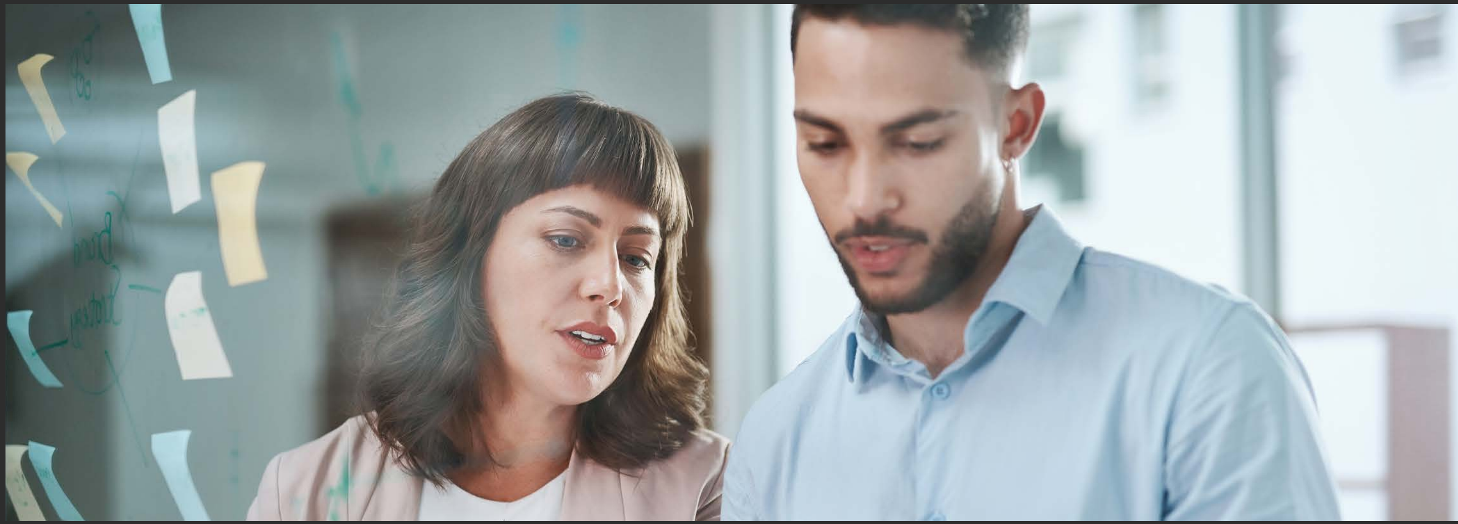
As mentioned above, the Assessment letter/ Finalisation of Audit Letter needs to make clear reference to whether SARS has raised USP's. SARS also needs to ensure that the percentage of the penalty imposed is proportionate to the appropriate behavioural category as outlined in section 223 of the TAA. The onus in this regard rests upon SARS to prove that the taxpayer's behaviour justifies the imposition of the requisite USP.

A concerning statistic is that this year, 45% of the participants indicated that they '*Strongly agree*', while 38% indicated that they '*Somewhat agree*' with the proposition that SARS is aggressive in raising USP's. Only 7% indicated that they '*Strongly disagree*'.

Figure 7: Do you perceive SARS as being aggressive in raising an 'understatement penalty' in terms of the table in section 223 of the TAA in relation to the particular behaviour that it deems a corporate taxpayer to be guilty of?



Source: PwC analysis



Value-added tax

VAT refunds may potentially pose a risk to SARS due to dishonest practices that result in undue VAT refunds from the revenue collector. As reported by the OTO in its Annual Performance Plan for 2022/23, the increase in fraudulent tax refunds, especially VAT refunds, is delaying the payment of valid tax refunds. The verification process is therefore a vital first step for SARS in combating dishonesty and fraud. But, by the same token, a delay in releasing valid VAT refunds (due to honest taxpayers) can also cause severe cash flow constraints, frustration and lack of ability to trade for some taxpayers.

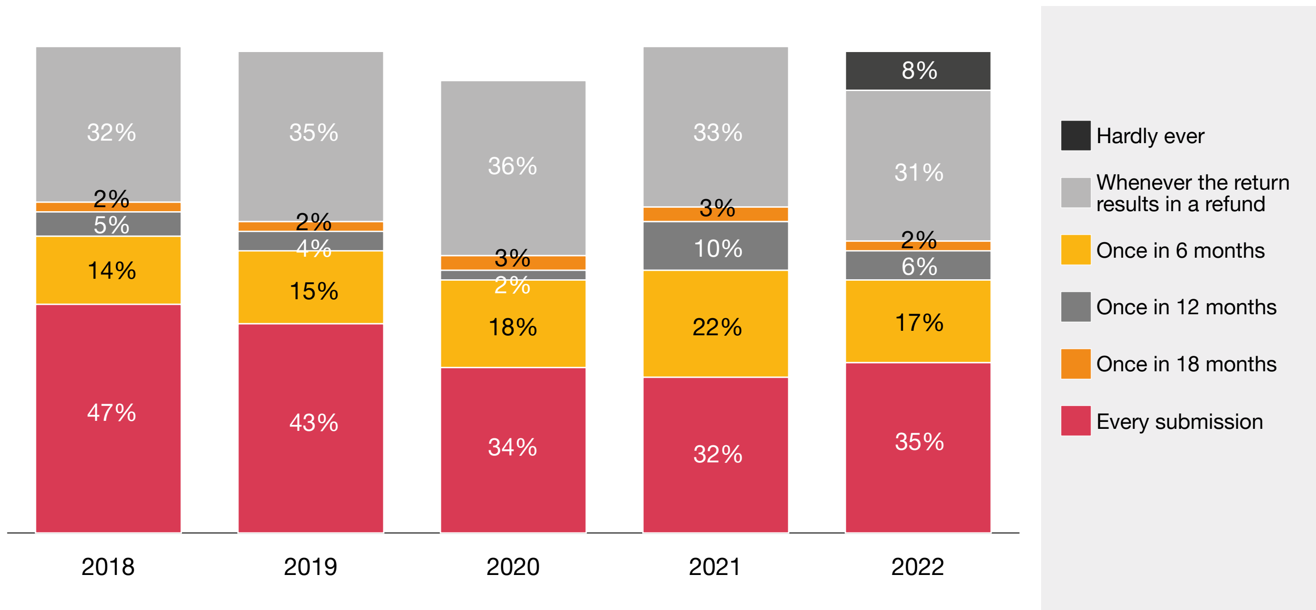
That being said, it is only during a verification or audit that SARS can test the veracity or reliability of the information submitted by a vendor.

Selection for VAT201 verification

In 2022, 35% of participants reported being selected for verification every time they submit a VAT201, whilst 31% indicated that they believe they are selected for verification whenever the return results in a refund.

Based on this year's results, we have noted that there has been an overall steady decline in the instances of VAT returns being selected for verification, save for the slight increase in statistics in relation to the 'every submission' category (from 32% in 2021 to 35% in 2022).

Figure 10: How often do your VAT201 returns get verified?



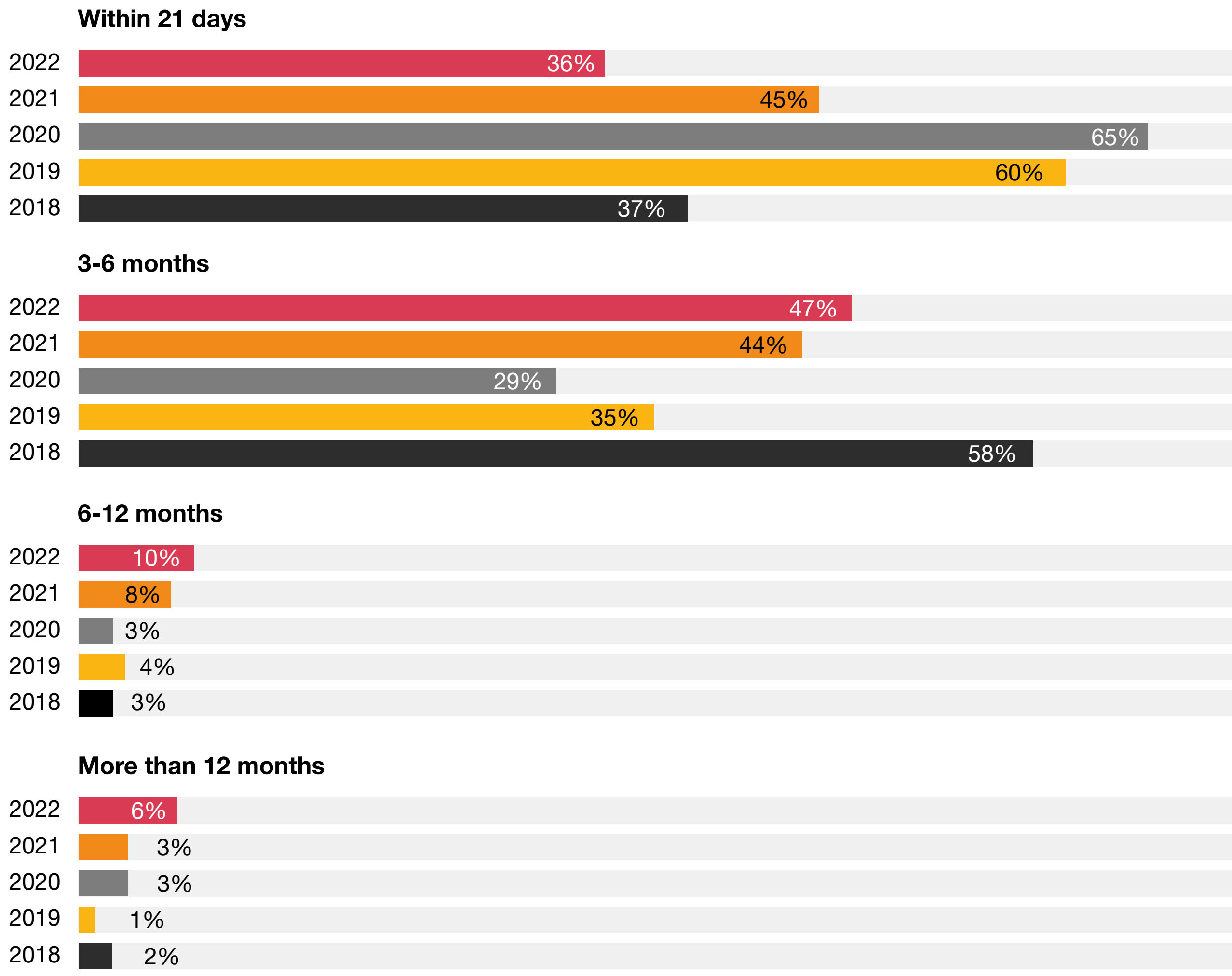
Source: PwC analysis

VAT verifications

This survey's results reflect a turnaround time for the finalisation of VAT verifications which has significantly deteriorated compared to prior years, despite the contrary metrics being published by SARS. 36% of participants reported that their verifications were finalised within 21 days, a 9% decrease from last year's 45% and a sharp decline from 65% in 2020 and 60% in 2019.

More worrying is that 47% of participants indicated that a VAT verification takes 3 to 6 months to conclude. This could have a detrimental impact on taxpayers' cashflow and ability to conduct business.

Figure 11: When submitting documentation in support of a VAT verification, how quickly does SARS finalise the verification?



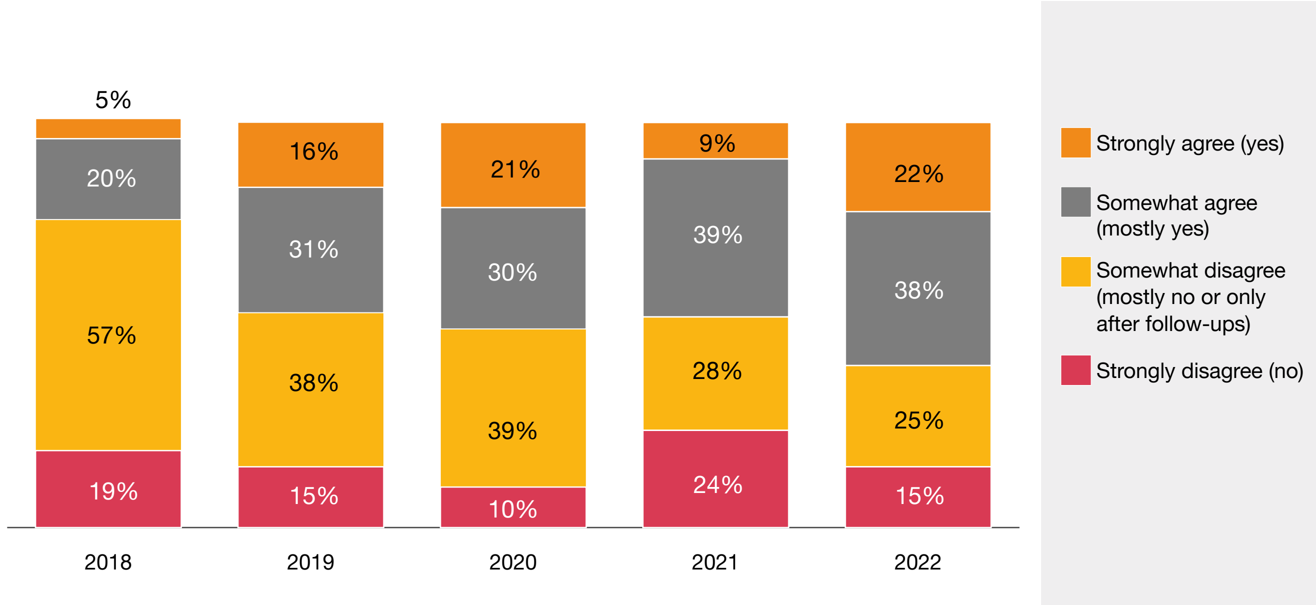
Source: PwC analysis

Payment of VAT refunds

SARS may withhold a VAT refund whilst a verification or audit of the VAT return giving rise to the refund is still underway. However, if a VAT return is not subject to a verification or audit - or if SARS has completed a verification or audit of a VAT return - it must release the refund due to the taxpayer. The graph below illustrates the instances where SARS has released a refund within 21 days and instances where it does not make payment of refunds within 21 days or only after follow-up enquiries from taxpayers.

There has been a 13% increase (from 2021) in particpants stating that they strongly agree that refunds are released in 21 days post finalisation of a VAT verification. This is indeed a good news factor to indicate that SARS is releasing the money in line with its stated commitments.

Figure 12: Did your VAT refund get paid within 21 days from submitting a return or receiving a notice from SARS indicating that a VAT verification has been completed?



Source: PwC analysis

Transfer pricing

SARS has been honing in its efforts on the transfer pricing risk reviews as well as audits since October 2017 and we expect that this trend will continue. In the 2021 Budget Speech, the former Minister of Finance, Mr Tito Mboweni, stated that SARS was 'expanding specialised audit and investigative skills in the tax and customs areas to renew its focus on the abuse of transfer pricing, tax base erosion and tax crime'.

This hard-line stance on cross-border transactions has also been reinforced by the submission of the MLI to parliament for ratification earlier this year.

In addition, during his revenue results announcement on 1 April 2022, the CSARS indicated that SARS' ongoing efforts on transfer pricing and international taxes continue to raise a concern in relation to companies that are engaging in BEPS practices. The CSARS went on to say that these are focus areas in the reorganising LB&I and will be extended across the other divisions as well.

In the context of BEPS, multinationals should review their transfer pricing policies, document transactions/ decisions taken appropriately and be audit-file ready to avoid costly and resource intensive investigations by SARS that may lead to unnecessary disputes. It is vital for taxpayers that are engaged in cross-border transactions to have supporting documentary evidence readily available in the event of a transfer pricing audit.

Company transfer pricing policy

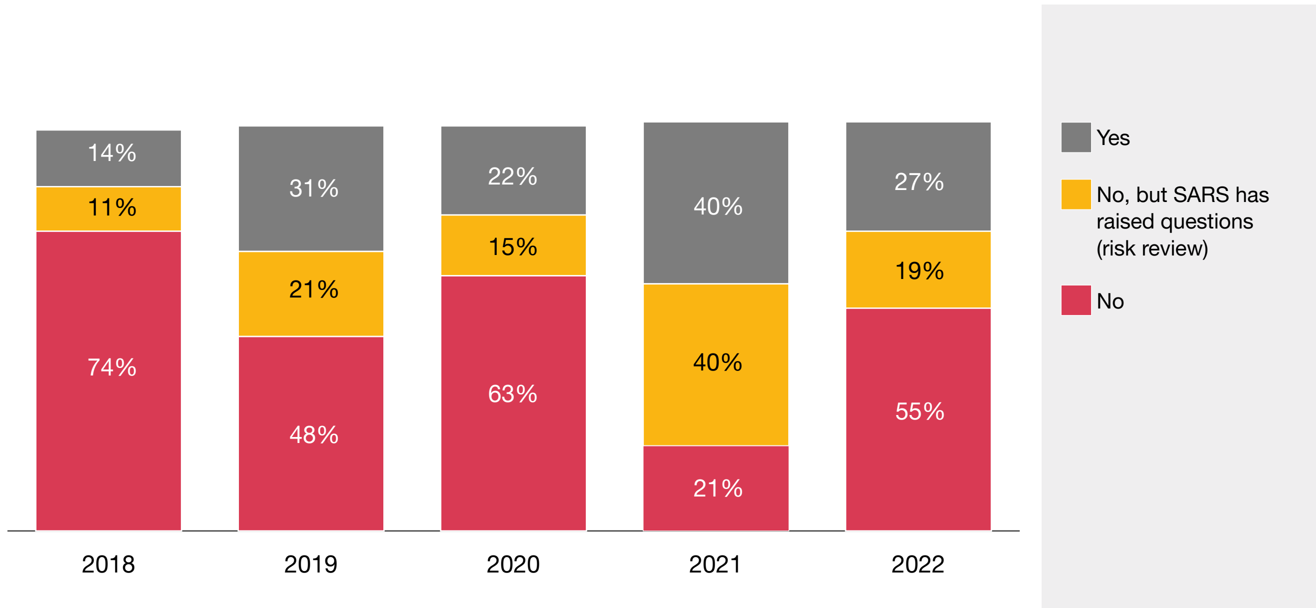
Among participating companies that conduct cross-border transactions where transfer pricing would be applicable, only 35% confirmed that their company has a transfer pricing policy that is applied in practice, which is a significant decrease from the 86% reported last year.

To the extent that companies who are required to have transfer pricing policies, do not have such policies in place, this would be concerning considering the compulsory transfer pricing documentation introduced as a part of the BEPS Action 13 initiative and global awareness campaigns conducted by the OECD, which taxpayers are required to submit.

Frequency of transfer pricing audits

This year, 27% of participants stated that they were selected for a TP audit. This statistic is down from 40% in 2021. The reason for the sharp decline in TP audits could be attributed to a large number of factors, i.e. taxpayers can be under risk review, TP assessments can be pending disputes / resolution or perhaps SARS has changed gear and focussed on other areas of CIT.

Figure 13: Have you been subjected to a SARS audit relating to transfer pricing?

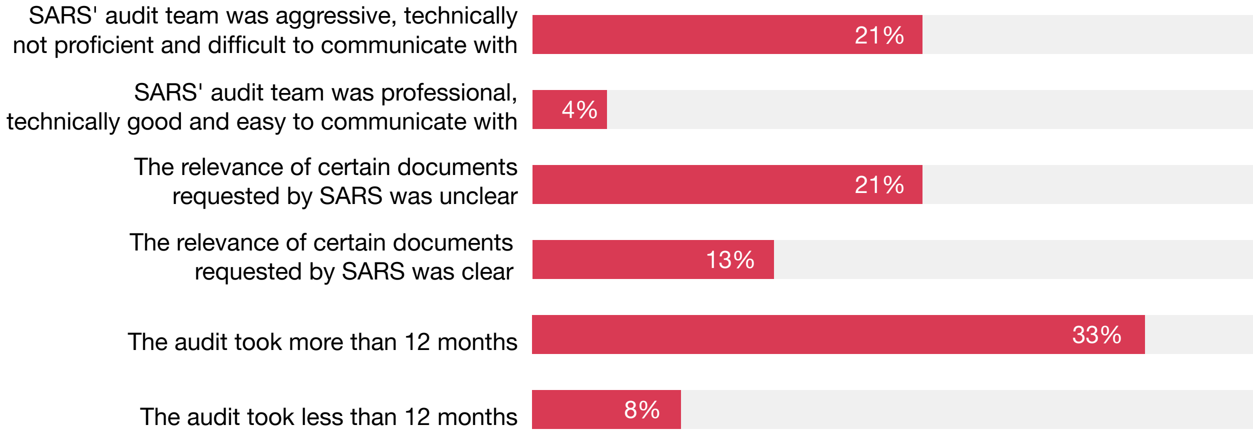


Source: PwC analysis

Experience of transfer pricing audits

This year, 33% of affected participants indicated that a SARS TP audit took more than 12 months to finalise. The proportion of participants that believe the relevance of documents requested by SARS was unclear was reported at 21%. A more concerning statistic is the fact that 21% believe that SARS' audit team was aggressive, technically not proficient and difficult to communicate with and only 4% believe that SARS' audit team was professional, technically good and easy to communicate with. As TP is a highly technical sometimes subjective and contested area, the latter results could be the reasons for this negative taxpayer perception.

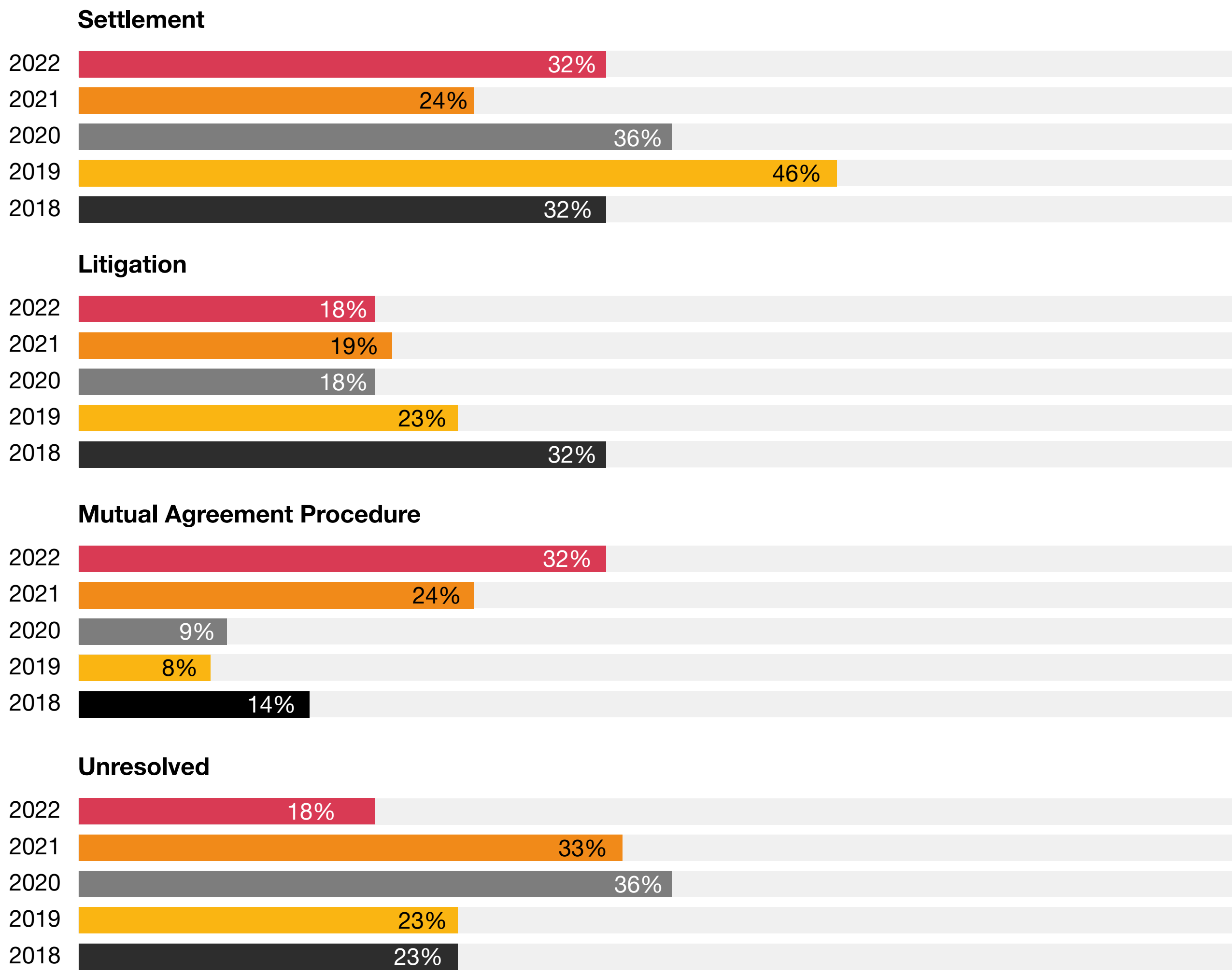
Figure 14: If your company has been subjected to a transfer pricing audit, what was your experience?



Transfer pricing assessments

The resolution of TP disputes appears to be continuing to migrate away from adversarial trials in court, towards seeking an amicable resolution with SARS via either MAP and/or settlement processes. The reduction in litigation could be indicative of an improvement in the climate for settlements. Alternatively, the reluctance by parties to go to court over transfer pricing disputes could be a negative inference that neither party wants to pursue TP matters to court as these matters are highly technical, complex and expensive. We note that there is a considerable decrease in the transfer pricing audits that have remained unresolved from 33% in 2021 to 18% in 2022. In addition, it appears that settlements and MAP are on the rise for the resolution of transfer pricing audits, with both increasing to 32% in 2022, from 24% in 2021.

Figure 15: If you received a transfer pricing assessment, how was it resolved?



Source: PwC analysis

Debt management process

SARS' debt management function runs parallel to the dispute resolution process. Where a debt is under dispute, a request for suspension of payment of the disputed tax amount, which is governed by section 164 of the TAA, is available to taxpayers to suspend the payment of taxes, penalties and interest to SARS. The 'pay now, argue later' rule can only be suspended by a senior SARS official if there is an intention to dispute the assessment and the application meets the criteria as contained in section 164 of the TAA.

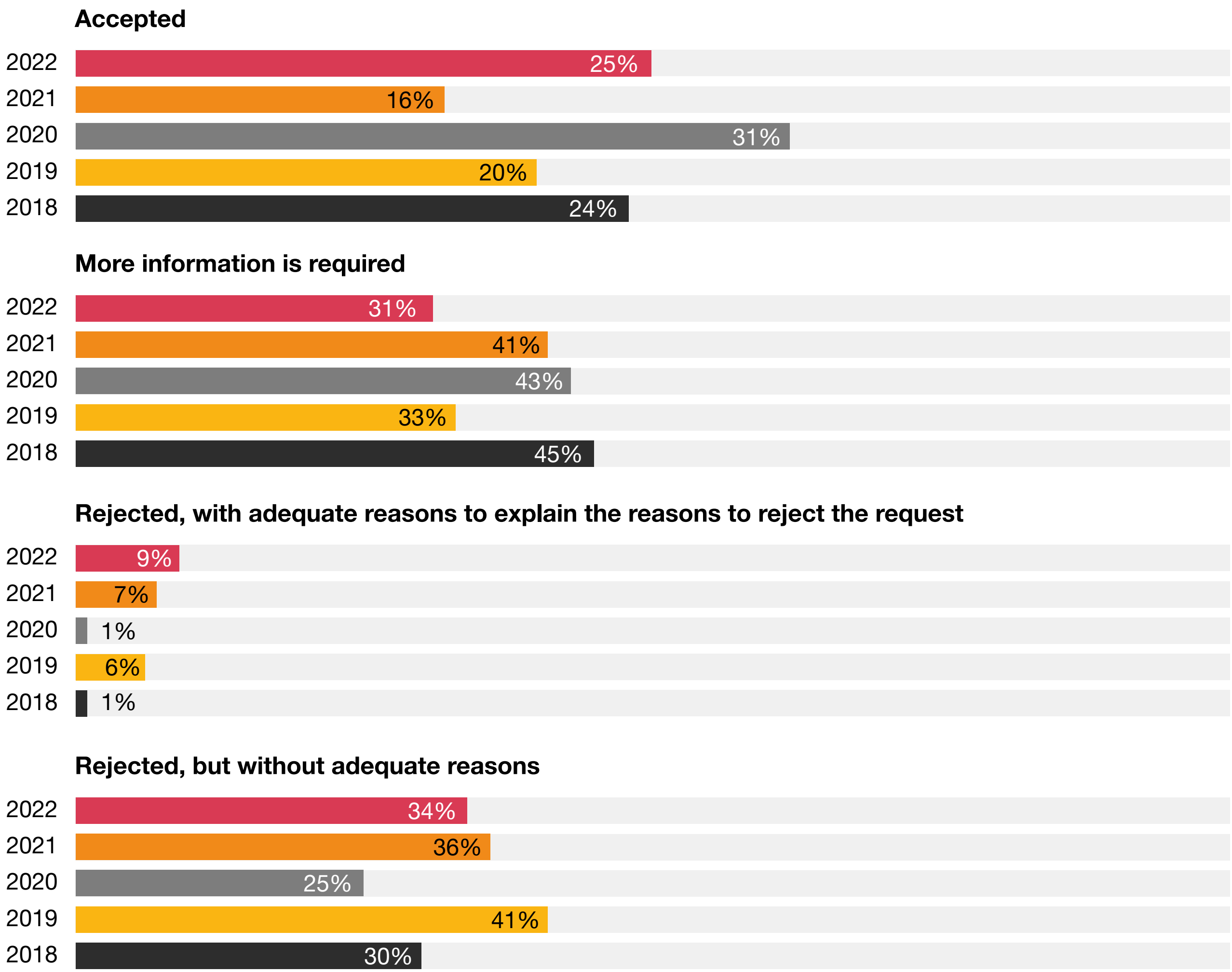
Response to suspension of payment requests

On a more positive note, 25% of participants reported that their requests for suspension of payment were accepted, a 9% increase from last year's 16% (31% in 2020).

It is concerning to note, however, that 34% of participants indicated that SARS had rejected their requests for suspension without adequate reasons (2021: 36% and 2020: 25%).

As stated above, SARS' powers must be balanced against the rights of taxpayers. A taxpayer must be fully informed of the reasons (i.e. the basis) for SARS' decision to decline a request for suspension of payment of disputed tax liabilities.

Figure 8: When you submitted a 'suspension of payment' request (section 164 of the TAA) to SARS, pending a dispute, what response did you receive from SARS?



Source: PwC analysis

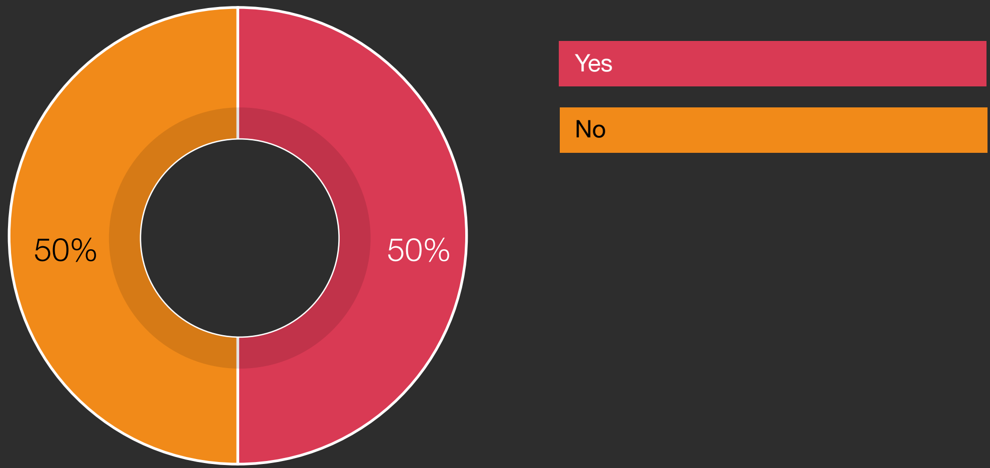
Requests for reduced assessment

Section 93 of the TAA outlines a potential method to correct returns that contain errors of a non-contentious nature. The correction of these errors should, once positively considered and approved by SARS, result in reduced assessments being issued by SARS (i.e. in favour of the taxpayer). Section 93(1)(d) provides for the issuance of reduced assessments in the event that a taxpayer's return was erroneous due to a *'readily apparent undisputed error'*.

This requirement may (and has in the past) caused significant disputes as, in general, SARS interprets a *'readily apparent undisputed error'* very narrowly compared to how a taxpayer might understand and interpret the legislation.

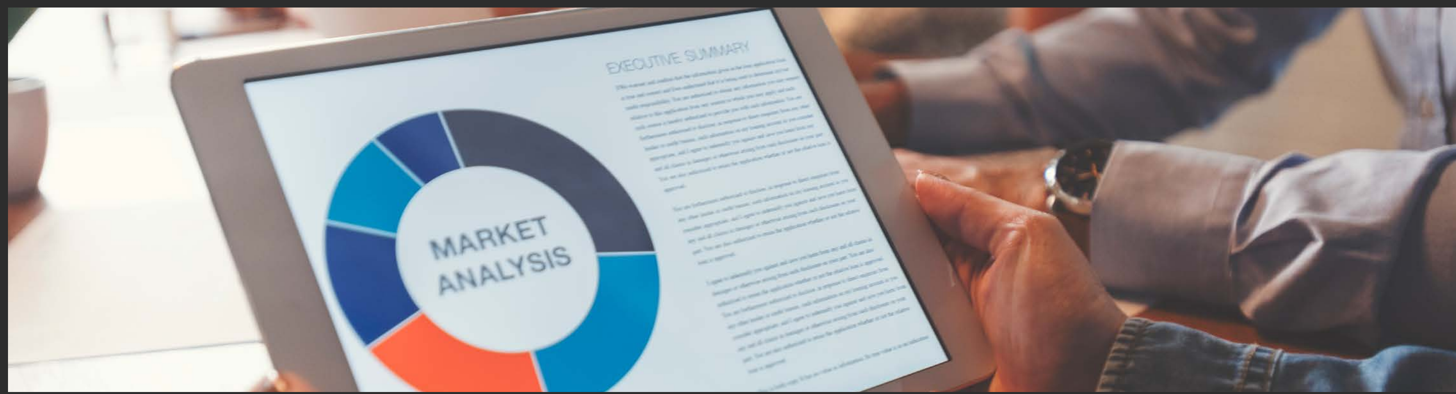
Various regulatory bodies have been lobbying over a number of years for change as part of the Annexure C proposal to National Treasury to amend the legislation, for a less restrictive criteria. SARS, however, continues to interpret the criteria narrowly and sometimes even inconsistently. This year's findings indicate an equal split (50%:50%) between the participants who have succeeded or failed in respect of a reduced assessment application and being able to convince SARS that an error was indeed a *'readily apparent undisputed error'*.

Figure 9: Have you been successful with a 'reduced assessment' application (section 93 of the TAA) and, accordingly, been able to convince SARS of a 'readily apparent and undisputed error'?



Source: PwC analysis

We note that on 16 August 2021, SARS issued the draft Interpretation Note on Reduced Assessments: ***Meaning of "Readily Apparent Undisputed Error"***. We remain hopeful that once this draft Interpretation Note has been finalised, more taxpayers (and SARS) will have a source of guidance and clarity when it comes to successfully proving a *'readily apparent undisputed error'* and ultimately receiving reduced assessments from SARS.



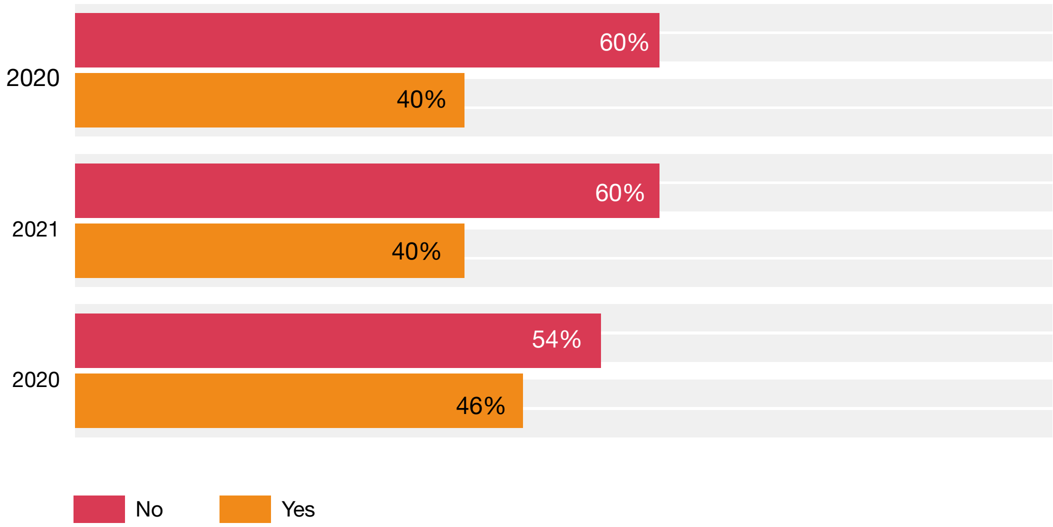
Voluntary Disclosure Programme

The VDP facilitates a process whereby taxpayers voluntarily disclose defaults or understatements in prior years and make full disclosure of their tax affairs to SARS, thus relieving SARS from engaging in time-consuming audits. The VDP is also a tool which enables taxpayers to ensure that their historic tax records are accurate. Not only does the VDP grant protection to taxpayers against criminal investigation and certain penalties, it is also a valuable means of revenue collection for SARS. In April 2022, CSARS announced that SARS had finalised 1,635 VDP applications which yielded approximately R3.0bn in cash collected and prevented a refund leakage of another R865m.

VDP applications

Interestingly, this year, the percentage of survey participants that said they had made use of the VDP process has remained unchanged from the prior year, at 40%. We believe this to be an area that should be made accessible and easy to understand as it could be huge contributor of revenue to the fiscus.

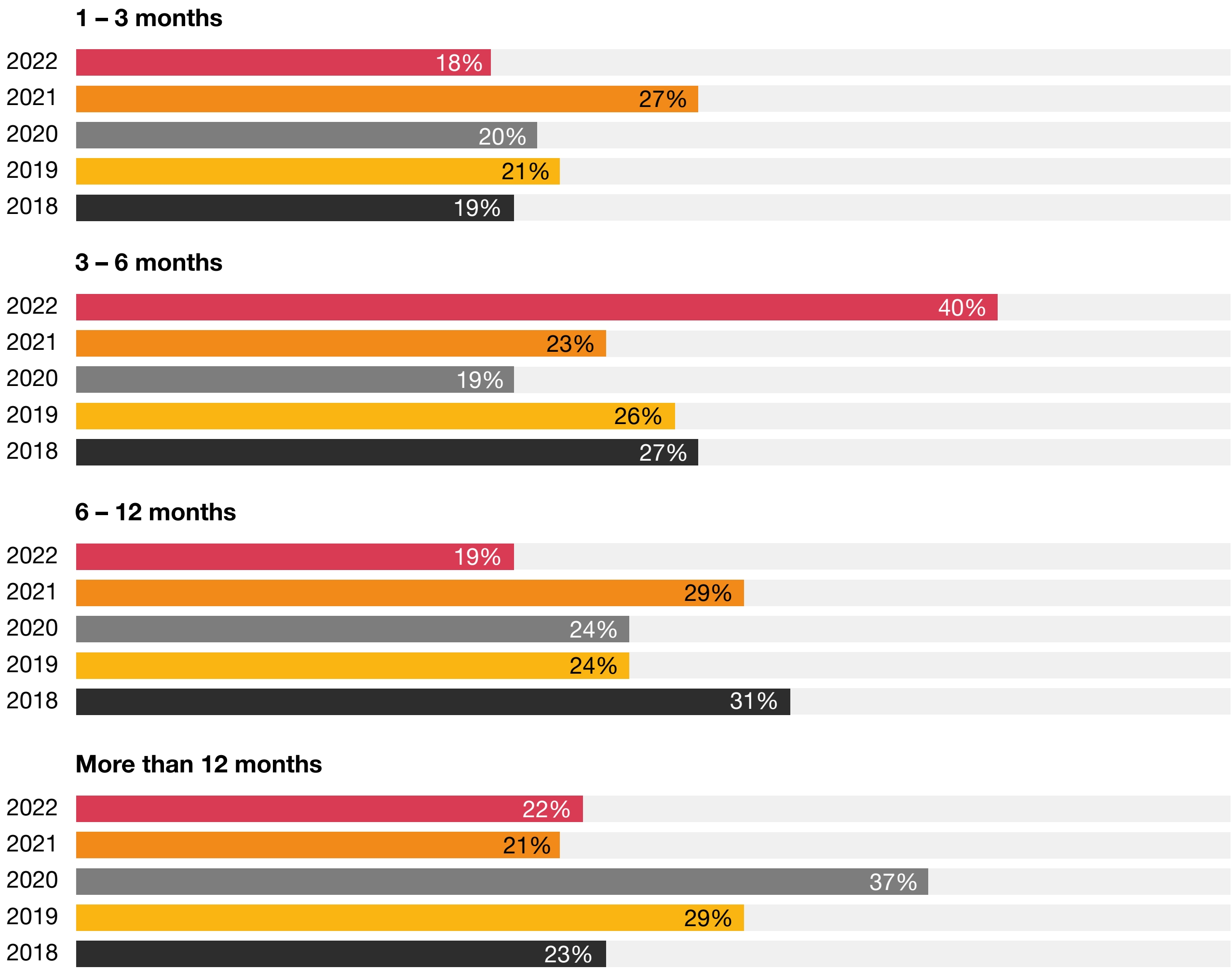
Figure 16: Have you ever made use of the VDP?



Source: PwC analysis

Only 18% of taxpayers reported that their VDP was finalised within one to three months, which indicates a decrease from last year's 27%. This year, we saw a significant increase in VDP applications being completed in three to six months, from 23% in 2021 to 40% in 2022. Overall, we have seen an increase in the turnaround time for the completion of VDP applications which is a positive development for both SARS and taxpayers.

Figure 17: What, in your experience, is the general turnaround time for a VDP application to be finalised?



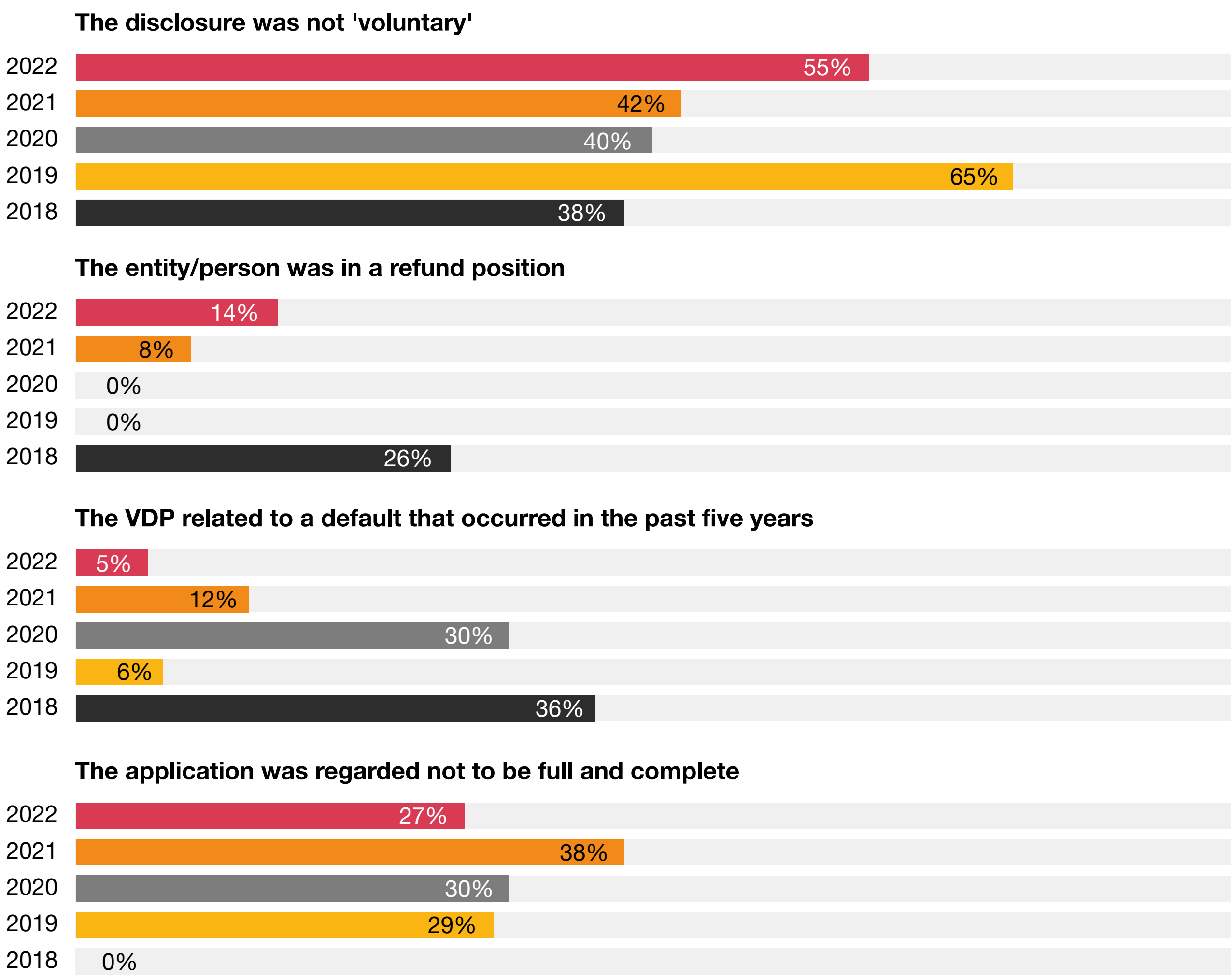
Source: PwC analysis

VDP applications denied

Section 227 of the TAA provides for the requirements for a valid VDP application. More than half of the participants (55%) indicated that SARS declined their application due to it not being ‘voluntary’. This could be indicative of the lack of clarity (i.e. published guidance is still in draft) in respect of the meaning of ‘voluntary’.

In addition, we have seen an 11% decrease (from 38% in 2021 to 27% in 2022) in the VDP applications which were denied on the basis that they were not full and complete. Again, there is a lack of clarity on what ‘full and complete’ means as well as the impact of prescription rules on the VDP. In our experience, this inevitably results in uncertainty with taxpayers in so far as the number of years to be included in a VDP application to comply with the ‘full and complete’ requirement. Perhaps, once the draft guidance is finalised, taxpayers may have a better understanding of the VDP criteria. An additional legislative suggestion would be to align the VDP disclosure period to section 99 of the TAA i.e. 3 year or 5 year rule, alternatively the record retention requirements as outlined in section 29 of the TAA.

Figure 18: When a VDP application is denied, what do you find is the most likely reason given?

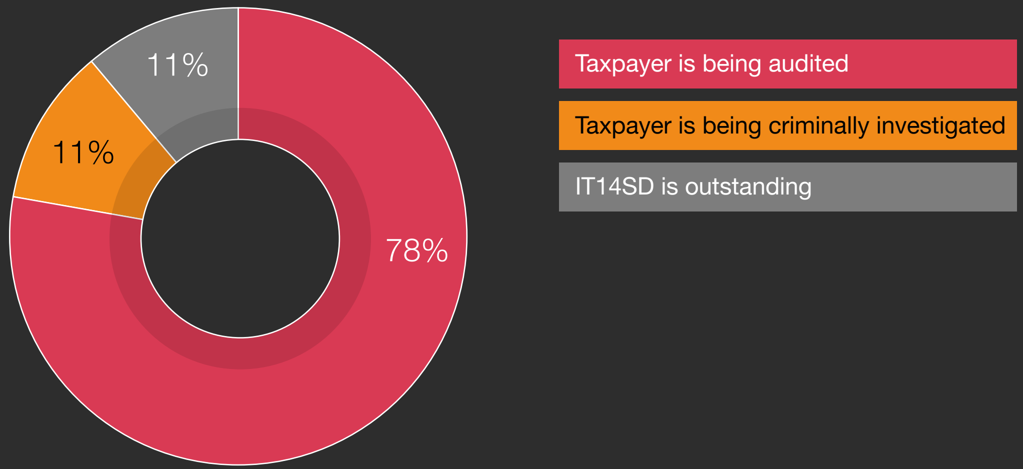


Source: PwC analysis

Of the participants that indicated that their VDP application was denied on the basis of it not being voluntary, 78% indicated that it was due to the taxpayer being subject to an audit and 11% indicated that it was due to the taxpayer's IT14SD being outstanding. This is a contentious area, as SARS has viewed the issuance of an IT14SD notice as a verification, which automatically eliminates the taxpayer from the process.

We note, however, that with the discontinuation of the IT14SD process altogether from September 2022, the number of taxpayers eligible for VDP could potentially increase.

Figure 19: If the VDP was denied on the basis of not being voluntary, what is the most common reason given?



Source: PwC analysis

Value of VDP relief

More than half (52%) of the participants who have made use of the VDP stated that they 'somewhat agree' that the VDP assisted their company in declaring its defaults properly and thereby correcting assessments and avoiding possible understatement penalties, while only 6% 'strongly disagree'. This is a good indication that SARS should refine the accessibility of VDP's to increase the participation rate. It is also likely that SARS is taking a more reasonable approach to considering VDP applications, resulting in certainty and regularised tax affairs for taxpayers, while reducing the resources employed by SARS during audits.

SARS' service delivery

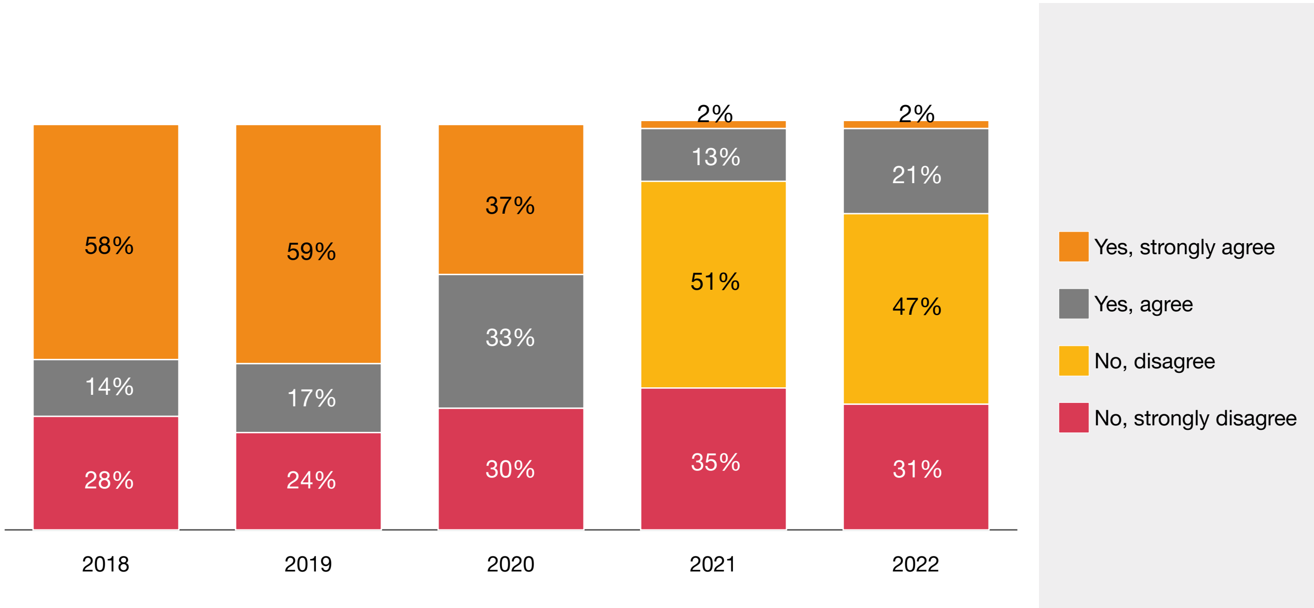
The quality of the service delivered by SARS

We asked participants if they believed that the quality of the service delivered by SARS to taxpayers has improved since the introduction of the SARS Service Charter in 2018. Disappointingly, only 5% of participants 'strongly agree' whilst 34% 'agree'. 20% of participants 'strongly disagree' with this statement.

SARS' compliance with time periods in general

This year, we asked participants if they believed that SARS honours the time periods specified in its 2018 Service Charter. This question was not specific to any processes undertaken by SARS but was aimed at determining the general perception of taxpayers regarding SARS' response time. Of concern is the fact that only 2% indicated that they 'Strongly agree' with the proposition that SARS complies with time periods, which percentage remains unchanged from the prior year. We have, however, noted that there has been a slight decrease (i.e. 35% in 2021 to 31% in 2022) in the participants that have indicated that they 'Strongly disagree' with this sentiment.

Figure 20: In your perception does SARS comply with the time periods specified in the SARS Service Charter?



Source: PwC analysis

Additional comments received from participants in respect of this segment

- SARS responsiveness has improved significantly in the last few years.
- In most instances, SARS has complied with the prescribed time periods.
- SARS' compliance with the time periods often results in taxpayers receiving inadequate responses, which have to be followed-up on.
- Taxpayers have noted that escalation requests do not have turnaround times.
- SARS rarely sticks to the timeframes set, as a result of which taxpayers turn to the Ombud's office.
- SARS exceeds the timeframes, especially in respect of audits and disputes. SARS also does not always adhere to the 21-day turnaround time associated with taxpayers' queries and general items such as public officer and banking details updates.

Compliance with tax obligations

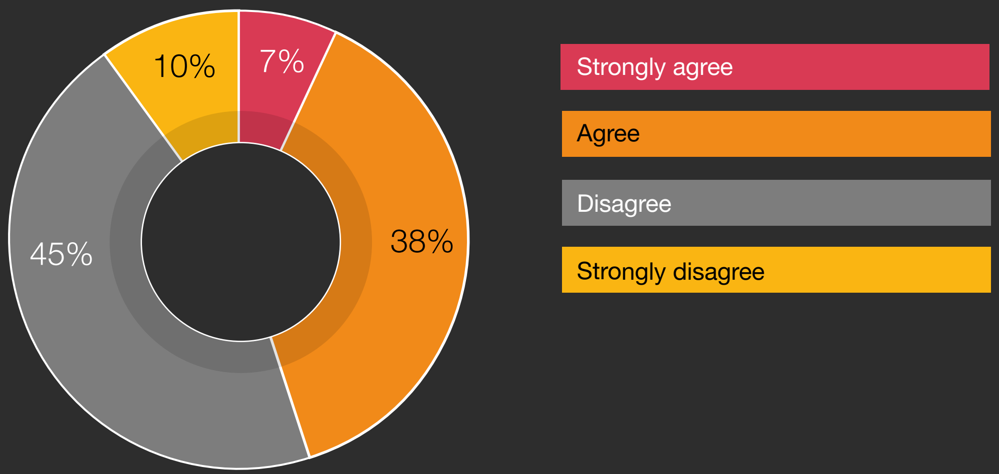
Only 7% of participants 'Strongly agree' and 38% of participants 'Agree' that it has become easier to comply with their tax obligations. This is a positive statement and aligns with SARS' Strategic Plan for 2020/21–2024/25 specifically strategic objective No. 2 i.e. ***making it easier for taxpayers to comply with their tax obligations.***

However, 45% of participants 'Disagree' and 10% 'Strongly Disagree' that it has become easier to comply with tax obligations. These findings may suggest that taxpayers find the tax systems/ processes to be too complex for them to understand/ navigate. SARS should consider introducing an open channel or direct communication with auditors where taxpayers can easily contact SARS to obtain advice on the interpretation and application of tax laws.

Additional comments received from participants in respect of this segment

- It is easy to submit returns and make payment, however, dealing with the queries raised post-submission is administratively challenging.
- Tax is becoming increasingly complicated which means that the smaller businesses are forced to appoint tax professionals for assistance, which is expensive. In addition, the tax legislation and guidance is not always clear.
- The increase in the number of verifications and audits taxpayers are subjected to makes it difficult to keep up with all the requests.
- It is a struggle to get taxpayers fully active for all taxes on e-filing because there is always something that is not right. This results in taxpayers falling behind in terms of compliance.
- The automation of certain links will result in compliance being more effective, easy and convenient for both taxpayers and SARS.
- The forms are more user friendly and the required fields provide a good guide for the taxpayer in declaring all incomes.

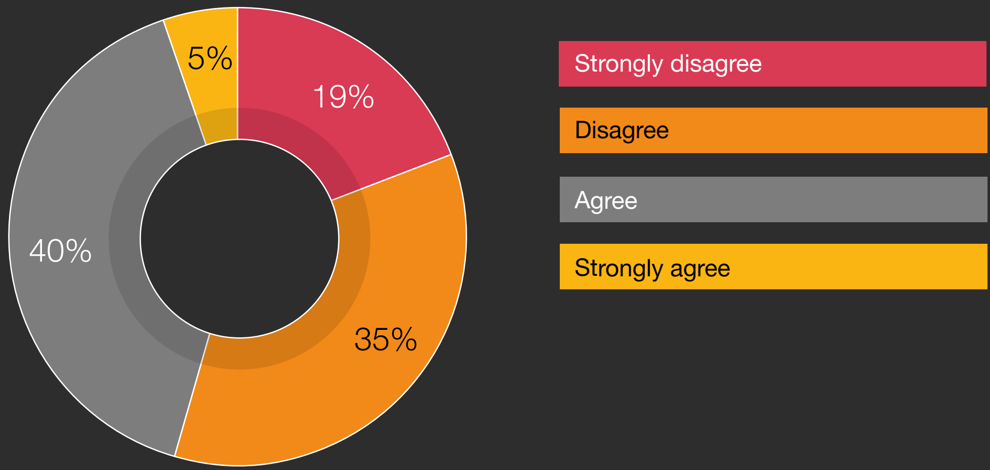
Figure 21: In your experience, has it become easier to comply with your tax obligations to SARS?



Trust in SARS

We asked participants whether their trust in SARS had improved in the last 12 months and 35% indicated that they ‘Disagree’, whilst 40% indicated that they ‘Agree’. This is an important aspect that SARS would need to address, as restoring trust will ultimately translate into restored public confidence and payment of taxes which our country desperately requires.

Figure 22: Has your trust in SARS improved in the last year?



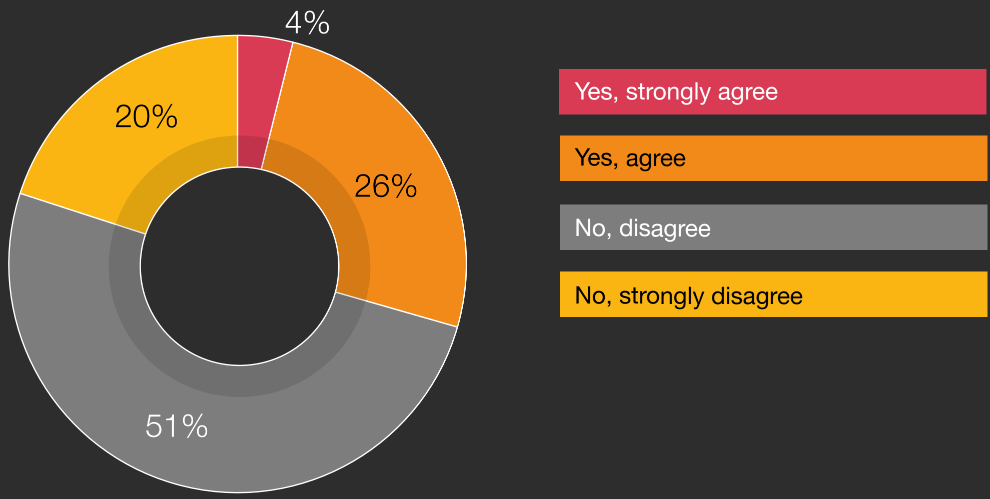
Additional comments received from participants in respect of this segment

- There is concern with the manner in which SARS treats taxpayers, however, complaints are kept at a minimum due to fear of the outcome of dealing with the SARS official in the future.
- Trust has improved slightly based on what is in the media with regards to large investigations and fraud that is uncovered. However, the taxpayer experience is still quite cumbersome.
- There has been a slight improvement compared to the previous year.
- There has been increased trust due to engagements between the Head of Tax and senior SARS officials annually.
- Mistrust has been created due to inconsistent communications between taxpayers and SARS.
- The process is not followed by SARS officials which causes mistrust. The process is not in line with what is set out in the TAA and the Service Charter.

Delivering quality outcomes and performance excellence

More than 70% of participants indicated that they do not believe that SARS has improved in delivering quality outcomes and performance excellence over the past 12 months. This is a worrisome result considering the fact that one of SARS' nine strategic objectives is to "drive efficient use of resources to deliver quality outcomes and performance excellence." However, it should be noted that improving quality and performance excellence in SARS is a process and will take time, effort and committed SARS officials to make it happen. We believe that the CSARS' media statements around the commitment of SARS to service excellence and customer centricity is a step in the right direction.

Figure 23: Has your trust in SARS improved in the last year?



Source: PwC analysis

Additional comments received from participants in respect of this segment

- The correspondence received from SARS is sometimes incomprehensible, particularly the correspondence received via e-filing.
- We have seen quality outcomes achieved at our local branch.
- More needs to be done in respect of the SARS officials' knowledge.
- SARS officials are not working with tax practitioners in order to assist with the collection of taxes.

PwC's Tax Controversy and Dispute Resolution services

Key lessons about the tax controversy life cycle

Successfully managing a SARS verification/audit (or even regularising a tax position) requires an understanding of the relevant legislation as well as the policies and procedures that SARS implements.

When receiving a final assessment from SARS, it is paramount to ensure that all the elements of the audit adjustment are adequately addressed (the taxpayer's submissions must be comprehensive) and timeously filed and that SARS' debt management activities are managed.

PwC is able to assist with:

- Liaising with SARS on a preventative basis, such as assisting clients with tax strategy/opinions, advanced tax rulings, as well as VDP applications.
- End-to-end management of tax audits, including responses to letter of findings and indepthly considering section 46 requests for information.
- Managing SARS disputes, including requests for reasons, objections, appeals (including ADR) as well as Tax Court matters.
- Assisting with SARS debt management matters including compromises and settlements as well as suspension of payment applications and instalment payment arrangements.

Our team of lawyers and accounting professionals (with 69 years of collective SARS experience) are here to help clients prevent, efficiently manage and favourably resolve tax audits and disputes throughout the world.

We combine deep technical understanding, local knowledge, strong relationships with government officials, tax litigation experience, and a global perspective to provide you with unrivalled service.

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At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 155 countries with over 327,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.